

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 971 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R. TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : YES
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

R L GANVIT

Versus

GUJARAT STATE SEEDS CORPN. LTD.

Appearance:

M/S NJ MEHTA ASSO. for Petitioners
MR JR NANAVATI for Respondent No. 1, 3, 4
NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE RAVI R. TRIPATHI

Date of decision: 22/12/2000

ORAL JUDGEMENT

The present petition came to be filed by as many as six petitioners who were serving with the respondent Corporation -- Gujarat State Seeds Corporation Limited.

The grievance of the petitioner is that the respondent Corporation having paid a special pay at the rate of 20% for technical staff and 10% for non technical staff, has now issued a show cause notice dated 22.02.1988 to them, wherein it is stated that the Special pay was payable to the petitioners and other employees as mentioned in the Govt. Resolution No. PCR - 1073 - G dated 01.12.1975 and not at the rate prescribed under Govt. Resolution No. MIS/1065/1045 - G dated 22.04.1965 and therefore, the amount paid for the period from 27.12.1985 to 31.05.1987 is required to be recovered. It is against this notice that the petitioners approached this Court. A copy of this notice was produced subsequently by amending the petition at Annexure 'N' to the petition.

2. One Shri. P.S. Joshi, Assistant Manager (Admn.), Gujarat State Seeds Corporation Ltd., Gandhinagar herein after referred as the Respondent Corporation, has filed an affidavit in reply wherein it is mentioned that it was for the first time that the Board of Directors of respondent, Corporation in its meeting no. 66 held on 18.06.1985 considered the question of grant of tribal allowance and or special pay to the officers and employees of the Corporation working in such branches of the Corporation which are in the tribal area. It was resolved in the said meeting that the employees working in the branches which are in the tribal area should be paid tribal allowance according to the relevant resolutions of the Govt. in force from time to time. It is the case of the deponent that as the Corporation decided on 18.06.1985 to pay the tribal allowance, the Govt. Resolution dated 01.12.1985 was the latest one, in force and therefore the allowance ought to have been paid at the rate prescribed therein, but by mistake the amount was paid according to the rate prescribed in the Govt. Resolution dated 22.04.1965. Therefore, said notice was required to be issued.

3. The petitioner contended that besides this recovery there are two other grievances, namely,

(i) Payment to be made as per the recommendations of Fourth Pay Commission. It is also the case of the petitioners that the other employees of the respondent Corporation are already paid as per the recommendations of Fourth Pay Commission while in case of the petitioners the respondents deliberately withheld the payment of arrears of salary; and

(ii) After 01.12.1965 another Govt. Resolution dated 01.06.1987 is adopted by the respondent Corporation and

that the petitioners be paid as per the rates prescribed therein.

4. Mr. J.R. Nanavati, learned advocate appearing for the respondent Corporation submitted that whatever is payable to the petitioners will be paid to them and so far as the payment of allowance at the rate prescribed in Govt. Resolution dated 01.06.1987 is concerned, the same also will be paid to them if the same is payable. In fact, the deponent has already produced a copy of the Resolution passed by the respondent Corporation in its meeting of the Board of Directors held on 26.05.1987, wherein it is resolved that for the time being no recovery will be made and further that the allowance will be paid to the petitioners and other employees on the basis of the Govt. Resolution dated 01.06.1987.

5. Mr. Mehta, learned advocate for the petitioners apprehended that the respondent Corporation may not make payment to the petitioners as per the recommendations of the Fourth Pay Commission. In fact, there is no basis for such an apprehension, more particularly when learned senior advocate Mr. J.R. Nanavati for the respondent Corporation makes a statement that whatever amount is payable and is required to be paid will be paid to the petitioners as expeditiously as possible. In light of this statement no grievance of the petitioners survives.

6. Hence, the petition is disposed of accordingly. Rule is discharged. Interim relief is vacated. No order as to costs. However, it is made clear that in case of difficulty it will be open to the petitioners to approach the court.

22nd December, 2000 (Ravi R. Tripathi,J)

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